

**BOARD OF FORESTRY AND FIRE PROTECTION
PROFESSIONAL FORESTERS REGISTRATION**

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**PROFESSIONAL FORESTERS EXAMINING COMMITTEE****OPEN SESSION MEETING MINUTES**

Meeting held May 11, 2006
744 "P" Street, First Floor Auditorium
Sacramento, California

Members Participating: Doug Ferrier, Chairman
Michael Stroud
Kimberly Rodrigues
Tom Osipowich
Otto van Emmerik
Gerald Jensen

Members Absent: Ray Flynn

Staff Participating: Eric Huff, Executive Officer
Terra Perkins, Office Technician

Public Participating:

Noelle Cremers, CFBF	Kent Norton, President AEP
Bill Keye, CLFA	Don Gasser, RPF
Glenn Flamik, CDF	Greg Giusti, UC Extension
Doug McCreary, IHRMP	Roy Richards, Jr., RPF
Terry Rivasplata, Jones and Stokes	Chuck Hughes, Certified Arborist
Chris Quirnbach, CLFA	Rose Marie Moore, RMM Environmental
Ed Stirtz, Sierra Nevada Arborists	Allan Lind, Lobbyist for AEP
Denice Britton, Consulting Arborist	Keith Babcock, Impact Sciences
John Little, Sycamore Associates	Keith Wagner, Law Firm of Wm. Yeates
John Hofmann, RCRC	Bill Snyder, CDF
Duane Shintaku, CDF	Dennis Hall CDF
Chris Browder, CDF	Wayne Mitchell, CDF
Kate Dargan, SFM	Dee Takamitsu, CDF

APPROVAL OF OPEN SESSION MINUTES OF MARCH 14, 2006 MEETING

Action was deferred on this item.

DISCUSSION OF THE PRACTICE OF FORESTRY AND OTHER DISCIPLINES SUCH AS ARBORICULTURE, BIOLOGY, BOTANY, ECOLOGY, ENVIRONMENTAL PLANNING AND RANGE MANAGEMENT

EO Huff introduced the topic and noted that two position papers had been provided by the Association of Environmental Professionals (AEP) and Western Chapter of the International Society of Arboriculture (WCISA) representatives.

Chairman Ferrier thanked the representatives of AEP and WCISA for the provision of the position papers and solicited opening remarks. Ferrier went on to provide further historical background on the subject of unlicensed practice of forestry in the CEQA context.

Chairman Ferrier proceeded to discuss the AEP position paper and clarified the difference between the Forest Practice Act and the Professional Foresters Law.

Allan Lind expressed his appreciation for this explanation of the distinctions between the laws.

John Hofmann stated that based upon the PFL's definition of "forested landscape" in PRC §754 a forest is not a forest when it is dedicated to a non-forestry commercial, urban, or farming use. Hofmann went on that we have to look at whether or not a forest is being used for forestry purposes or for some other use. Chairman Ferrier continued the dialogue with Hofmann and attempted to respond to the question of when a forest ceases to be forest.

Chuck Hughes expressed his frustration that the Board's definition of what constitutes unlicensed practice of forestry appears to be so broad as to include tree work on individual lots. Chairman Ferrier responded that he understood the reason behind the frustration.

Chris Quirnbach followed up on Hofmann's comments directed at the issue of when a forest is no longer a forest. Quirnbach responded to Hughes' comments by stating that RPF's are not advocating for a role on the urban landscape.

Denice Britton commented that the entire town of Paradise is a forest and that those living there are more likely to call an arborist when they need work on their individual trees. RPF's only get involved when commercialization of the timber removed is desired in a conversion. Chairman Ferrier continued with Britton's example and attempted to clarify the role of the RPF in timberland conversion.

Greg Giusti responded to Hofmann's comments as to the meaning of "devoted to" in the definition of "forested landscape." Giusti questioned who determines what "devoted to" means, but also pointed out that the definition includes the words, "naturally capable of." He indicated that this is an issue the PFEC is going to have to wrestle with.

Chairman Ferrier attempted to clarify the difference between rural residential landscapes and functioning natural forests using Britton's Paradise example.

Keith Wagner asserted that the question of "timberland conversion" is a different issue than what we are trying to deal with today. He went on to question whether or not there is a law dealing with conversions of non-timberland. Ferrier responded that the courts have affirmed the Board's ability to regulate forested landscapes that do not meet the definition of "timberland."

Wagner reiterated his question and Giusti responded that CEQA regulates conversion of non-timberland landscapes.

Chairman Ferrier and EO Huff described the Board's support of the PFL in their passive regulatory approach to hardwood resources.

Kim Rodrigues asserted that the collective focus of the meeting should be toward building partnerships and common understandings. Rodrigues suggested that an open dialogue utilizing a "case study" approach could be very constructive to all of the professions at issue. She went on to recommend that a subcommittee could be convened to clarify roles upon conclusion of this open dialogue.

Rose Marie Moore recounted her receipt of the letter from EO Huff stating that she was practicing unlicensed forestry. Moore described the letter as accusatory and threatening, and directed at her rather than the lead agency. She went on to express her desire for the PFEC to take action one way or another.

Chairman Ferrier attempted to clarify the manner in which the licensing office has historically dealt with unlicensed practice. EO Huff offered his apology for the tone of the letter and attempted to further clarify the rationale for its issuance.

Keith Babcock asked whether or not the PFEC wants to clarify professional roles and definitions or if it should be assigned to a subcommittee for possible resolution. Ferrier responded that the PFEC is attempting to solicit input from the affected public before assigning tasks to a smaller group.

Denice Britton asked about complaints received thus far as to their tone and focus. EO Huff responded that the complaints have centered on work product being produced by non-licensed individuals. Britton asserted that she has been practicing forestry without a license for a long time based upon Huff's statements to date. Britton added that arborists have filled the void absent RPF's interested in performing in the CEQA arena.

Chairman Ferrier described the MOU with the US Forest Service as a possible place from which to begin identifying tasks that are and are not the practice of forestry. This approach could lead to the development of a policy statement for adoption by the Board.

Kent Norton expressed AEP's desire that the PFEC clarify the difference between the production of environmental documents and the practice of forestry. Norton went on to say that many professionals see a difference between oak woodlands and forests. He then echoed Rodrigues' desire to see a task force of multiple disciplines collaborating toward common understandings.

Terry Rivasplata mentioned that this issue doesn't just affect EIR's, but also Negative Declarations. Environmental professionals are very concerned that the implications of the PFEC's actions are more far reaching than has been portrayed. CEQA is probably the greatest source of litigation statewide. Rivasplata concluded with his opinion that SB 1334 effectively did little to change how CEQA is utilized in the context of oak woodlands and only applies to counties regardless.

Bill Keye asked for clarification from EO Huff as to why folks are viewing this as a "new" representation of the PFL. Huff responded that this is not a new issue as has been iterated consistently.

EO Huff expressed his confusion over the notion that oak woodland is in some way different than any other type of forest. Greg Giusti supported the understanding that a forest is a forest regardless of species and that there is far more oak woodland in the state than redwood forest.

Denice Britton concurred with Giusti's opinion and followed with the assertion that one of the primary reasons for the controversy is that most arborists could not pass the RPF exam. This is due to arborists' lacking experience in the commercial management of timberlands and the Exam's consistent focus there. Chairman Ferrier acknowledged that the RPF Exam has focused upon commercial forestry too much, but that the PFEC continues to work toward an Exam not so focused on the state's forest practice program.

Kim Rodrigues expressed her desire to see this productive dialogue continue. She went on to ask how a specialty certificate would be created to certify arborists. Huff and Ferrier outlined how the possible adoption of a specialty would proceed through the Board's process.

Don Gasser provided a further history of how the PFL came to be despite numerous earlier failures over a period of years. Gasser advised that there is a great deal that must be considered in the process of attempting to construct a certificate of this kind.

Keith Babcock stated that he felt that while there likely is common ground, there may also be clear distinctions between the roles of various disciplines. He went on to describe specific instances in which foresters, arborists and botanists might differ in the manner in which they offer characterizations of trees and forests.

Babcock expressed hope that lines would not be drawn to the exclusion of competent and qualified professionals.

Doug McCreary detailed some of the products IHRMP has available in relation to the effect of SB 1334 and offered to post materials generated in this effort if it would be helpful.

Glenn Flamik explained that as an urban forester he has to deal with maintaining forested attributes on landscapes that have been dramatically altered. He further opined that converted landscapes require greater effort to maintain than natural forests. Flamik concluded with his hope that greater qualifications rather than association certificates would be required of those who would choose to work toward landscape conversions.

Allan Lind expressed his appreciation for the manner in which the PFEC was acting on this issue and stated that he has learned a great deal thus far. Lind further offered that he would like to spend time in future meetings discussing the function of CEQA.

Kent Norton asked if further correspondence would be issued by the PFEC in the meantime and supports rapid resolution of this issue. Chairman Ferrier responded that the PFEC would still be obligated to deal with specific complaints, but that no generic letter would be posted with wide distribution. EO Huff expressed the desire not to stir up any more controversy in seeking positive, constructive resolutions.

Chairman Ferrier brought up the specific issue surrounding the notion that a CEQA document is invalid purely due to lacking involvement by an RPF. Ferrier emphasized that this is not the PFEC's perspective. Kent Norton would like to see this explicitly stated because of the contentions of some that absent an RPF the CEQA ID team is inadequate. Terry Rivasplata again emphasized that this issue affects Negative Declarations and all jurisdictions from city to state.

John Little stated that the reality is that specific counties are now requiring an RPF in the construction of CEQA ID teams. Kent Norton reiterated that this is happening and that the PFEC needs to try and clarify this issue sooner than later.

Greg Giusti asked if there is a working definition of forestry that could serve as the starting point for further discussion amongst disciplines. EO Huff and Chairman Ferrier responded that the definition already exists in the PFL. Huff then read the definition from the PFL.

Kent Norton, Keith Babcock and others indicated that this definition is not clear to many amongst the general public. Discussion ensued as to the varying roles of state registrants within the CEQA context.

EO Huff then suggested posting another letter to all 41 counties with oaks attempting to clarify the roles of various professionals and informing local jurisdictions of the current effort to resolve the issue.

Chris Quirnbach offered that the PFEC cannot control how local jurisdictions interpret the PFL and that CEQA does not exist in a vacuum—it exists in concert with all other laws.

Chairman Ferrier solicited input from the PFEC as to which direction to proceed. Tom Osipowich supported the assignment of a subcommittee to tackle possible solutions to the issue. Osipowich then stated that Huff will need to brief the Board on the current situation and direction. The question of whether or not to post another letter per Huff's suggestion was discussed and supported by the PFEC as a clarification rather than retraction of the "Lake County Letter."

Tom Osipowich reiterated that the misinterpretation of the PFEC's aim is not the PFEC's doing. Rather, it is the work of other groups with particular motivations.

EO Huff was directed by the PFEC to draft a letter for review by the various interested parties.

DISCUSSION OF CDF'S DRAFT NTMP GROWTH AND YIELD GUIDELINES

Chairman Ferrier introduced Deputy Director, Bill Snyder to present CDF's draft NTMP Growth and Yield Guidelines document. Snyder indicated that a couple of years ago, CDF had noticed that the NTMP filing return rate was running around 50%. In response to concerns expressed by the Board, CDF held a series of workshops on NTMP plan filing issues. One of the key issues identified was the area of growth and yield. In response, CDF constructed this document to aid RPF's in the completion of growth and yield analysis for NTMP's. Snyder emphasized that this document is for guidance purposes only and not to be interpreted as regulatory in nature. The document has been through a peer review, but has not yet had a rigorous technical review.

Jerry Jensen began the discussion by stating that the document is a great summary for how one would conduct growth and yield analysis in textbook fashion. Jensen added that he was pleased to see that this was a guidance document rather than an explicit directive and noted that the PFEC had received one letter sharply critical of the document.

Bill Snyder noted that he too had received this letter from Chuck Ciano and appreciated Jensen's polite summary of Ciano's remarks.

Jensen went on to state that one could follow all of the steps outlined in the document to come up with a harvest level number and still be off the mark in reality. Snyder responded that CDF shared this perspective and had attempted address it within the document through the different tiered approaches. Snyder went on to say that the more uncertainty there is to a particular NTMP, the more information would be necessary for CDF's evaluation of sustainability. The RPF will need to lay out where the property is now in terms of regulation and where management expects to take the property.

Jensen then asked Snyder if CDF had considered recommending an adaptive management approach to growth and yield. If one could demonstrate that harvests were below annual growth, would that not satisfy CDF? Snyder responded that in the instance where a property is already regulated with well stocked stands, the amount of information necessary to demonstrate sustainability may be lesser. For an ownership where stands are understocked and the owner is attempting increase stocking concurrent with relatively aggressive harvest entries, CDF is going to require more information to demonstrate sustainability. Ultimately CDF wants to see a reasonable approach to demonstration of growth and yield consistent with actual conditions.

Bill Snyder indicated that this document has as much application internally as externally and aims to serve the regulated as well as the regulator.

Kim Rodrigues recommended that an executive summary clearly spelling out the purpose of the document and again emphasizing its guidance rather than regulatory nature.

Tom Osipowich supported Rodrigues' recommendations and added that CDF must continue to treat this as guidance only into the future. Tom went on to ask if other groups had provided comment on the document. Snyder responded that Chuck's was really the only written comment yet received.

Jerry Jensen asked if CLFA had reviewed the document. Chris Quirmbach responded that CLFA is in the process of reviewing the document and would provided comment at some future date.

EO Huff expressed appreciation for Bill Snyder's efforts within the document to emphasize that it was not intended as anything other than guidance to RPF's. Huff then asked why a 5-year threshold for inventory lifespan? Bill Snyder responded that the specific situation would dictate the need for further information.

Chairman Ferrier asked Bill Snyder as to how many NTMP's had been approved since inception in 1991. Ferrier followed with the question as to how many NTMP's had demonstrated problems with growth and yield since 1991. Snyder responded that he did not have an answer for that question, but noted that

NTMP's of late are relying upon "creative" methods for growth and yield demonstration. Ferrier expressed the opinion that this guidance document was overkill in relation to an NTMP's scale. Requiring SYP level demonstrations seems inconsistent with the purpose of the NTMP and may be a deterrent to those who might otherwise be interested in an NTMP. This kind of growth and yield analysis may result in loss of the cost advantage otherwise realized by the landowner with an NTMP.

Bill Snyder responded that he understood that the document had tortured elements to it, but that there were legitimate reasons for requesting a more thorough demonstration of sustainability in certain instances.

Duane Shintaku provided a historical perspective and noted that the lure of the one permit NTMP has resulted in ownerships that do not fit into the uneven-aged management scheme very well. As such CDF has been challenged to analyze growth and yield in very complicated situations. Shintaku added that there are also those NTMP's where growth and yield is easily demonstrated and fit well to uneven-aged management.

Chairman Ferrier asked Duane Shintaku if landowners were being talked into going through the NTMP process despite their conditions not really fitting well to that setting. Shintaku responded that this may be happening to some degree.

Dennis Hall reiterated that the relative youth of the NTMP is such that it is difficult to say if there might be problems with long term demonstration of balanced growth and yield at this point. Tom Osipowich asked if there appears to be a problem at this point or if it seems likely into the future. Hall responded that it was really too soon to tell, but that there is a problem with communication between submitters and plan review staff in getting to what is necessary for accurate demonstration of growth and yield.

Chairman Ferrier stated that he is bothered by the apparent inconsistency between an NTMP and other mechanisms for demonstrating MSP. Ferrier added that he felt the guidelines were unfair to NTMP landowners considering what is required of other larger landowners doing more intensive silviculture. Ferrier went to say that he did not see anywhere in the rules that an NTMP has to meet the standards for Long Term Sustained Yield (LTSY). Snyder responded that the document attempted to provide landowners with options for demonstration of sustained yield.

Chairman Ferrier indicated that he would go through the document once again, but appreciated Snyder and Shintaku's responses to questions.

EO Huff asked if this document was going to allow for innovative approaches to G&Y demonstration along the lines of Dale Holderman's approach. Snyder responded that he felt like the document would allow for such approaches.

DISCUSSION OF THE BOARD'S SPECIALTY CERTIFICATE PROGRAM FOR CERTIFIED RANGELAND MANAGERS (14 CCR §1651)

Mike Stroud asked Chairman Ferrier if it would be appropriate for the certification panel of SRM to construct a draft policy statement for clarification of the role of the CRM. Ferrier indicated that this would be appropriate. Kim Rodrigues added that any such policy statement should also be linked to the policy statement on RPF's and other professions.

EO Huff introduced the letter received from RMAC requesting the PFEC's guidance on the overall utility of the CRM Program. Huff described the current state of discussion amongst the RMAC members and the desire of some to expand the definition of where CRM's practice.

Noelle Cremers attended the RMAC meeting in which this matter was discussed and noted that there were even some CRM's who did not want to see expansion of the area in which a CRM is necessary. Cremers went on to urge the SRM certification panel to be thoughtful in their consideration of expanding the application of the certificate.

Chairman Ferrier provided the history of the changes to the PFL's area of application and noted that the CRM program, like the RPF program remains bound to the current definition of "forested landscape." Ferrier added that not only did the PFEC not intend to alter the CRM area of application, but that it did not have the power to change the "forested landscape" definition in order to do so. Ferrier advised Noelle Cremers that she could report this to her constituency.

Kim Rodrigues questioned to what degree the PFEC could actually determine the utility of the CRM specialty. Rodrigues added that she was pleased Mike Stroud was involved in helping to answer these questions.

John Little asked if CRM's could do the same work as an RPF in the CEQA context. Chairman Ferrier responded that CRM's, while bound to the forested landscape definition, are focused on the range resources rather than the trees.

REVIEW OF REPORT TO BOARD OF FORESTRY AND FIRE PROTECTION ON PLAN (THP, NTMP) FILING STANDARDS.

Chairman Ferrier introduced this topic and asked CDF for an update as to their efforts toward completion of a revised THP form. Chris Browder responded that a draft form including Sections I and II had been circulated to CDF regional staff. Browder anticipates this review will not be complete for an indeterminate number of months. Ferrier asked when CDF would likely have a form for review by the public. Browder responded that this could happen no sooner than August 2006.

He went on to emphasize that it was of critical importance that this revised form be helpful rather than more complex.

Kim Rodrigues asked if CDF was relying upon outside review as well as internal review. Browder responded that at present review was limited to internal staff.

Chairman Ferrier asked about the status of the “newsletter” posting on CDF’s website for outreach to RPF’s with regard to common filing problems. Chris Browder responded that this was under way, but had not been completed and reviewed such that it was ready for website posting.

Chairman Ferrier asked EO Huff when the next edition of Licensing News could be posted. Ferrier went on to suggest that a person could be hired temporarily to help with publishing of the Licensing News.

DISCUSSION OF FIRE CLEARANCE INSPECTIONS PURSUANT TO PRC4291; STATE FIRE MARSHAL’S FIRE CLEARANCE INSPECTION TRAINING PROGRAM; AND POSSIBLE BOARD CERTIFIED SPECIALTY PROGRAM FOR FIRE CLEARANCE INSPECTORS.

EO Huff introduced the topic and provided an update on continued discussions of this possible new specialty certificate. Huff reiterated AG Cunningham’s perspective on this possibility as well as the Department’s concerns. Huff went on to note that there are two levels to this issue: internal to CDF and external toward privatization of defensible space inspectors. Chairman Ferrier provided additional explanation of the Board’s “Defensible Space Guidelines” and noted that the guidelines create a possible necessity for RPF involvement.

Jerry Jensen asked if the defensible space inspectors would be performing those tasks typical of RPF’s. Ferrier responded that inspectors might perform certain similar functions, but not all.

Kate Dargan explained how many distinct fire service districts are approaching defensible space and noted that the number of inspections necessary to achieve compliance with PRC 4291 is overwhelming. Dargan went on to describe the legislative effort toward privatization of inspectors and explained where things went awry in that legislative effort. Dargan then provided background on how the 40-hour inspection training came to be and introduced Don Gasser as one of the first graduates of the program. She indicated that the intent was to train inspectors who could then engage in private enterprise in the employ of insurance companies and homeowners. Dargan continued with explanation of the challenges to working with homeowners and the complications involved with adjusting the personal aesthetic desires of homeowners. Kate concluded with support for integration of multiple disciplines in this effort.

Wayne Mitchell described the internal CDF defensible space inspection training program just completed. Mitchell noted the differences between defensible space purposes of old versus new. He went on to explain the focus of the training and noted that inspectors are not providing advice to homeowners. They are expressly focused on rating compliance.

Kate Dargan explained in detail the curriculum for the 40-hour defensible space training program. She noted that students are in the classroom about 2/3 of the time and in the field for the remainder. The training is labor intensive. As such, any specialty certificate established by the Board is going to take some time and manpower to construct.

Don Gasser provided his perspective on the 40-hour training program and emphasized that defensible space inspection represents an opportunity for interdisciplinary collaboration. The necessary expertise involved is very broad.

Jerry Jensen suggested that defensible space represents an opportunity for the general public to witness how landscapes change over time.

Kim Rodrigues asked if there was an examination process and if so what sort of pass rate there was. Kate Dargan responded that all attendees received a certificate of attendance. She noted that there were some in the class who came in with absolutely no experience in anything related and that she would not feel comfortable turning them loose without further instruction. Rodrigues then asked whether a specialty certificate would be applicable to RPF's only or other disciplines as well. Gasser responded that defensible space represents a great opportunity to marry many disciplines.

EO Huff asked Don Gasser if being an RPF was necessary to defensible space inspection. Gasser and others responded that being an RPF was not necessary, but that some training in natural or fire sciences is a good place to begin. Wayne Mitchell described some of the kinds of situations that inspectors would deal with—homeowners wanting to maintain deer habitat, bird populations, etc.

Dennis Hall asked what sort of minimum standards are in place to prevent non-qualified people from starting up defensible space inspection businesses. Kate Dargan indicated that this is one of the reasons for creating a certificate program. Chairman Ferrier questioned the insurance issues with starting up a defensible space inspection business. Don Gasser responded with an explanation of how he is working through the insurance process.

General discussion on liability issues continued with comments by Dargan, Mitchell and Ferrier. Discussion then transitioned to how an inspection training program might be created on a broader scale.

Kate Dargan concluded her remarks with an expression of support for continued consideration of a specialty certificate for defensible space inspection.

EO Huff was directed to continue discussions with Wayne Mitchell, Kate Dargan and the AG.

NEW AND UNFINISHED BUSINESS

Roy Richards, Jr. asked how many cases were currently under review by the PFEC. Roy went on to revisit the necessity of a need to define minimum acreage for oak woodlands in the context of the previous agenda item on practice of forestry in the CEQA context.

SCHEDULING OF NEXT MEETING.

Conference call is scheduled for July 6, 2006 to approve successful RPF applicants.

ADJOURNMENT

05-01-2006 Tom Osipowich moved to adjourn the Open Session. Otto van Emmerik seconded the motion. Motion passed unanimously.